

**AMENDMENTS TO THE SPECIFICATION:**

Page 11, line 2 through line 28 have been amended as follows:

Embodiments of the present invention meet the above needs and provides additional improvements and advantages that will be recognized by those skilled in the art upon review of the present disclosure. The present invention provides an apparatus and methods for evaluating the performance of a company that provides a plurality of pre-selected responses to each query that are objectively answerable based on observed behaviors of the employee and provides an apparatus and method for the analysis of evaluation data. The present invention provides some method and apparatus to objectively, fairly, and impartially measure performance evaluations to base promotion performance on actual data. In one aspect, the present invention provides an apparatus for evaluating a business. The apparatus including an interface, a data storage device, a processor, and an output. The interface to presents a plurality of inquiries regarding the performance of an employee of the business and to receive a pre-selected behavior based response for each of the plurality of inquiries. The behavior based response is selected from a plurality of a behavior based responses provided with each of the plurality of inquiries. Each of the a behavior based responses is assigned a value. The data storage medium is coupled to the interface to receive and store the value for each of the [[a]] behavior based responses. The processor is coupled to the data storage medium to retrieve the values and to transform the values into at least one measure of performance. The output coupled to the processor to provide the at least one measure of performance in one of human readable form and machine readable form. The measure of performance may be one or more of an individual employee's performance, a departmental performance average, a division performance average, a company performance average, an identification of training need, an indicator of training effectiveness, an action plan for the employee, an action plan for the department, an action plan for the division, an action plan for the company, a comparison of current performance with past action plans, a comparison of aggregated data over time for the employee, a comparison of aggregated data over time for the department, a comparison of aggregated data over time for the division, or a comparison of aggregated data over time for the company.

Page 24, line 1 through line 8 have been amended as follows:

16. An analysis of rule compliance can be generated by identifying the specific behaviors and conditions and characteristics that are assess assessed through individuals' behaviors such as

safety compliance and other rule compliance by tracking those specific behaviors and selecting them for specific reporting for rule compliance. The same statistical rigors are required report. The compliance of rule and national standards are embedded within each and every position description and thereby performance evaluation. Therefore specific rule compliance is maintained through scoring of 4.0 or more in any of the performance requirements for each individual job.